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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED

In the Matter of)	
)	
Closed Captioning and Video Description)	
of Video Programming)	
)	MM Docket No. 95-176
Implementation of Section 305 of the)	
Telecommunications Act of 1996)	
)	
Video Programming Accessibility)	

COMMENTS OF

Californians for Television Access (CAL-TVA)
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We, Don Senger and Mary Skyer, on behalf of Californians for Television Access (CAL-TVA) and Self Help for Hard of Hearing People - California (SHHH-CA), file these comments on February 25, 1997, in the FCC's Notice of Proposed Rulemaking MM Docket No. 95-176, concerning Closed Captioning and Video Description of Video Programming/Video Programming Accessibility.

In summary, CAL-TVA and SHHH-CA supports in general the proposals for video programming accessibility made by the Commission with a few exceptions. Those exceptions include a need for greater emphasis on quality closed captioning of prerecorded video programming, high quality real-time closed captioning of local news, emergency broadcasts and live broadcasts, and support of a requirement for 100% closed captioning of all video programming.

On the following pages, we wish to comment on some of the Commission's proposals and offer a few suggestions for implementation and enforcement of video programming standards and requirements.

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Closed Captioning Audience: In determining the need for closed captioning, production sources and programming providers should be made aware of the fact that approximately 10% of their viewing audience is hearing impaired. Nationally, this breaks down to approximately 24 million Americans who are hard of hearing (mild to severe-profound hearing loss) and 2 million Americans who are totally deaf. Further, closed captioning aids people who have normal hearing and are learning English as a second language, as well as aids as a learning tool for children who may or may not have hearing or learning disabilities.

New Programming: CAL-TVA/SHHH-CA supports the proposal to require all non-exempt, new programming be closed captioned within eight years, with the requirement of phasing in the amount of captioning by 25% every two years. We believe that this timetable is within reason and does not impose any undue burden upon production sources and programming providers.

Library Programming: CAL-TVA/SHHH-CA supports 100% captioning of all video programming. However, we acknowledge that making this requirement of library programming may be economically unfeasible due to the substantial size of library programming. To maximize the accessibility of previously published programming, we propose library programming be closed captioned based on frequency of use and anticipated audience size. A video program that is broadcast several times a month or year to a substantial audience has a greater need to be closed captioned than one shown one to four times a year to a minuscule audience. Similarly, a one-time broadcast to a national audience warrants without question a need for closed captioning. Phase in of closed captioning for libraries may follow the same eight year transition program proposed for new programming. At the very least, 75% of the video library should be closed captioned.

Standards for quality and accuracy: CAL-TVA/SHHH-CA agrees that the Commission should monitor the closed captioning that results from their requirements but not adopt standards for non-technical aspects of captioning such as accuracy of transcription and spelling. We suggest, instead, that the National Court Reporter's Association (NCRA) be requested to develop and propose non-technical captioning standards for training, testing and certification of stenocaptioners for review and approval by the Commission. Since this association currently tests and provides credentials to court reporters (from which the pool of stenocaptioners is drawn), it is in the best position to undertake this project. We are also aware that the California Disposition Reporters Association recently developed a captioning test for stenocaptioners that was to go into effect in February, 1997. Unfortunately, they were unable to implement the test because the NCRA would not recognize it.

Enforcement: While we agree that while the Commission should be the ultimate recipient of complaints concerning captioning, complaints should first be directed to the program provider for resolution. To ensure that viewers can not only complain to the appropriate persons or departments, but also to ensure immediate action by the program provider to resolve the captioning problem, every program provider should have a specific publicized telephone number for people to call in their captioning complaints. This telephone number should be a "live" line and not an answering machine where messages may not be retrieved until the next day, long after the captioning problem occurred.

Captioning of local news: Contrary to the National Association of Broadcasters (NAB) study of February 1996 that implies that 81.5% of broadcast stations caption local news, complaints about lack of captioned local news from hearing impaired communities around the nation seem to indicate the NAB's study is either incorrect or is excluding a substantial number of broadcast stations. Personal observations by members of CAL-TVA and SHHH-CA indicate that real-time captioned news is a rarity and electronic newsroom captioning is sporadic. There is a loud demand coming from hearing impaired communities

around the nation, asking for captioning of all local news in their communities, preferably real-time captioned, but electronic CAL-TVA/SHHH-CA newsroom captioned at the very least.

To our knowledge, the CAL-TVA/San Francisco Bay Area is the first and perhaps only area in the nation where all four network affiliates real-time caption all their local news programs (except the FOX affiliate, which has reverted to electronic newsroom captioning while seeking funding sources for real-time captioning). All four also have contracts with real-time captioning agencies to provide real-time captioning during emergency broadcasts and follow-up news reports.

In relation to those stations that do provide captioning of local news, whether real-time or electronic newsroom, hearing impaired communities are complaining about the lack of captioning for weather and sports reports, as well as field reports. Stations with electronic newsroom captioning have stated that their weather and sports are mostly ad-libbed, not scripted, whereas stations using real-time captioning have indicated that there are graphics for weather reports and sports scores. Hearing impaired viewers, however, complain about being left out on non-visual information, such as small craft warnings. Consequently, newsrooms should not omit captioning simply on the assumption that graphics that they display will provide "adequate" information. Any audio information provided that is not in a displayed graphic must be considered as "information not given to the hearing impaired viewer."

This problem also occurs with emergency broadcasts. The new Emergency Alert System (EAS) now requires an open-captioned, screen crawl across the top of the TV screen when broadcasting emergency alerts. The most important issue at this time is the lack of detailed captioned information during emergencies. The January floods had the "honor" of implementing the new Emergency Alert System in California with modest success. As required under the new regulations, EAS alerts were being displayed in screen crawl format across the top of the TV screens. The problem was that the screen crawl information did not match the audio portion. This was because the crawl was displaying only the EAS message header information and ran perhaps only 10 seconds compared to the 60-second or more audio portion.

That EAS captioning uses only the header information presents a problem. Also, it currently is able to target an area that is no smaller than one ninth of a county. That is too large of an area when counties in California like San Bernadino County are as large as the state of Ohio.

As an example, several television stations in the Sacramento Area received over 400 calls in the first five minutes of an EAS alert because the caption said an entire county needed to be evacuated whereas the audio portion said to evacuate "Marysville". If the open captioned message had been followed, evacuation of the entire county would have evacuated almost 500,000 people! And, unfortunately, the Sacramento Area lacks real-time captioning of local news, so their news centers were unable to provide immediate, correct, detailed information to hearing impaired viewers in captioned format. Some of those stations don't even use the simpler electronic newsroom captioning.

We were more fortunate in the San Francisco Bay Area where all 4 network affiliates real-time caption their local news and emergency broadcasts. Though the EAS screen crawl information was incomplete and inadequate (one alert said there was a Napa River alert effective 5:48 PM, but didn't say what part of the River area and what actions people were to take ... the audio portion was more specific), the Bay Area TV news centers came on the air with immediate follow-up reports that were real-time captioned. Thus, the news centers gave the viewers the captioned information that the EAS bulletins failed to provide.

Our understanding is that when the Commission adopted the new EAS regulations, it kept the rules

flexible enough to allow text transmissions but the Commission did not wish to restrict the development on the part of any manufacturer who may wish to provide such information. The practical business aspect is that development on the part of a single manufacturer is, at best, risky and, at worst, destructive.

Such a move is risky because any manufacturer who develops such a system would not be assured of its adoption on a universal basis. Therefore, a system developed under this policy would be proprietary, expensive, and limited in its availability.

Such a move would be destructive because consumer equipment would vary from one geography to another. A system, say for Contra Costa County, California, might not be compatible with a system in Kansas City, Missouri. A mobile population would never stand for such a situation.

In cases where local stations are unable to provide instant visual transcription of audio emergency messages, we recommend use of the second text channel that a viewer may switch to within 10 minutes of an emergency broadcast to read a typed report of the audio message and any actions the viewer is being instructed to take.

We have been advised that the Society of Broadcast Engineers is proposing a method for textual messages within the EAS protocol that manufacturers and consumers can support. If a standards group, such as the Society of Broadcast Engineers, were to promulgate a standard for the transmission of text within the EAS protocol, then manufacturers could all build to that standard, open and non-proprietary. The forces of competition will enter the marketplace, and the cost to the consumer will be reduced.

Accordingly, CAL-TVA/SHHH-CA supports the contention that emergency broadcasts and news reports have a much higher priority for captioning than entertainment and other programming.

Responsibility for compliance: CAL-TVA/SHHH-CA supports the Commission's proposal that responsibility for the Commission's closed captioning requirements should be placed on video programming providers, provided that the programming providers are serving more as "enforcers" of captioning requirement compliance by video producers and owners than as producers of captioning for all programming that they purchase, broadcast and distribute. We thus believe in a "shared responsibility", wherein video producers bear the responsibility for closed captioning their programming whereas programming providers bear the responsibility for enforcing closed captioning compliance by video producers from whom they purchase video programming.

Transition process: CAL-TVA/SHHH-CA has concerns about the possible "loopholes" programming providers may find in meeting their percentage quotas for each 2-year, 25% captioned programming period. To help prevent this, we believe that the percentages of programming should apply to each channel transmitted by a programming provider, whether such programming provider is an over-the air broadcaster, cable service or satellite service. Since most programming transmitted by cable or satellite services are simply retransmission of over-the-air programming from networks or other broadcast stations, each such channel transmitted is already acting on the closed captioning requirements and this compliance should not be credited to the cable or satellite service. The exception would be those video programs originated by the cable or satellite services; those programs would require enforcement of the 25% rule for each channel transmitted.

Percentage Requirement Time Period: CAL-TVA/SHHH-CA believes that the determination that a percentage requirement has been met should be based on a month's programming. This conclusion is based on two factors: 1) less time, manpower and paperwork is required for providing monthly reports as

opposed to weekly reports; 2) a monthly basis allows programming providers more flexibility in determining which programs can be closed captioned during that period -- at least during the initial two to four years of the transition period.

Reformatted Prerecorded Programming: CAL-TVA/SHHH-CA supports 100% captioning of all programming. Consequently, we believe that once any program is closed captioned it must remain closed captioned forevermore, including equal captioning of all copies. If a programming provider must edit or reformat a prerecorded video program for any reason, the programming provider becomes responsible for producing any new closed captioning required for broadcasting the reformatted video.

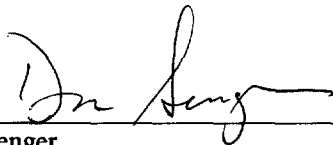
Exemption of classes of programming: CAL-TVA/SHHH-CA does not support the contention by some providers that music videos, live programming, pay-per-view, sports, and pay-per-channel be exempt from closed captioning mandatory requirements.

Obviously, instrumental music videos cannot be captioned. However, vocalized music videos are welcomed and wanted by hearing impaired viewers. While hearing impaired viewers who are totally deaf may not fully appreciate such captioning, the majority of hearing impaired viewers who are hard of hearing and can follow the melody but not the words have a profound desire for captioned music videos.

While most sports programs do indeed contain action that does not require words and bear graphics that show scores and other related information, the fact remains that sports commentators provide a substantial amount of information to the sports viewer that is not displayed in graphics. Hearing impaired sports viewers have an intense desire for closed captioning of sports programs so that they know what the commentators are saying and thus enable the hearing impaired viewers to share in the excitement of the game.

Live programming, advertising, pay-per view and pay-per-channel all represent markets for hearing impaired viewers. There should be no type of program that is exempt from closed captioning.

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